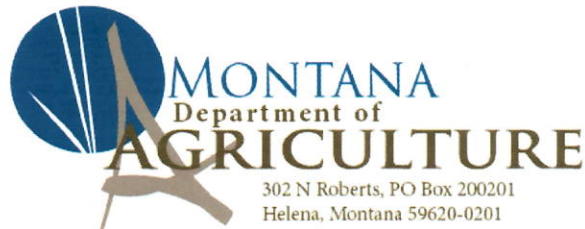


Steve Bullock
Governor



Ben Thomas
Director

406.444.3144 • Fax: 406.444.5409 • agr@mt.gov • www.agr.mt.gov

April 8, 2020

Joe Lockwood
Yellowstone County Weed District
3319 King Avenue East
Billings, MT 59101

Dear Joe,

Congratulations on the award of your Noxious Weed Trust Fund Grant! Your project, "2020 Yellowstone River Saltcedar Project - Yellowstone County" will be referred to as **MDA Grant 2020-040**. The grant contract is attached for review and signatures. **Please print the contract, enter the tax identification number and mailing address for the Project Funding Recipient, and acquire authorized signatures. Email the completed contract to cbearden@mt.gov by April 23, 2020. Please let me know if there will be any delays.** The contract may be returned by mail if needed.

To expedite reimbursement for completed grant activities:

1. Refer to Section 24 - Date and Signature in your contract for the effective date of the contract agreement. Project expenses may not be incurred prior to this date.
2. Project Funding Recipients must follow Montana's Prevailing Wage Law for project contractor wages in excess of \$25,000. Contact your county attorney, or a Prevailing Wage Compliance Officer at the Labor Standards Bureau (800-541-3904 or 406-444-4503) to ensure full compliance.
3. Any meals approved in the project budget will be reimbursed at state per diem rates.
4. Project status reports are submitted to the Department by **November 30th** outlining grant activities. Photo points are taken at regular intervals throughout the project and submitted with the final status report. Status reports and photo points are submitted using WebGrants at <https://funding.mt.gov>. The final status report and claim must be submitted no later than 30 days after the contract term date.
5. Claims for reimbursement of project expenditures are submitted by the Project Funding Recipient through WebGrants. Reimbursements are made to the financial officers of the Project Funding Recipient organization. The Project Funding Recipient is responsible for disbursing reimbursement payments to project participants. Allow approximately three

weeks to receive funds. The final 10% of grant funding is retained pending approval of the final status report, claim and verification of matching funds.

6. Establish a separate Special Revenue Fund for this grant so that funds may be tracked. Grants awarded to a county must operate through the county's financial system, as the county will be accountable for the proceeds. If you have additional questions on this procedure, please contact Local Government Assistance at 841-2909.

We look forward to seeing your progress with this project. If you have any questions, please contact us.

Jasmine Reimer jreimer@mt.gov 444-3140 / Greta Dige greta.dige@mt.gov 444-7882

Carol Bearden cbearden@mt.gov 444-7880

Sincerely,
Carol

Carol Bearden
Weed Program Specialist

NOXIOUS WEED TRUST FUND PROJECT
GRANT AGREEMENT
2020 YELLOWSTONE RIVER SALT CEDAR PROJECT - YELLOWSTONE COUNTY
MDA NUMBER 2020-040

1. PARTIES: Montana Department of Agriculture, the "Department", and Yellowstone County Weed District, "Project Funding Recipient".

The parties to this agreement agree as follows:

2. TERM: The term shall be from the date specified in this agreement to October 31, 2021 unless terminated pursuant to Section 20 entitled "Termination".

3. PURPOSE: The Project Funding Recipient will perform noxious weed control activities along the Yellowstone River in Yellowstone County beginning in 2020.

4. SCOPE OF WORK: Work to be performed by the Project Funding Recipient under this agreement, including all specific aspects of the project, description of the final product, and revenue and expense projections for the project are described below or described in appropriate appendices as indicated:

The Project Funding Recipient will:

- control 199 acres of tamarisk along the river corridor with ground equipment as listed in the grant application,
- diminish the threat to old oxbow floodplain areas along the Yellowstone River by monitoring and treating old infestations as well as new infestations of tamarisk,
- educate landowners about preventing and controlling noxious weeds, and
- take care to avoid damage to non-target vegetation, water, and riparian areas while performing these tasks.

In addition, the Project Funding Recipient will:

- Apply all herbicides listed on the herbicide worksheet according to label directions,
- calibrate all application equipment prior to use in the project area,
- verify, in writing, correct pesticide licensing of all pesticide applicators involved in the project area (name and license number),
- target sites where herbicides cannot be used for biocontrol releases or other alternate control methods,
- conduct educational programs and tours to inform adjacent landowners about the success of the weed management program,
- map and upload or enter mapping data, for all weed infestations within the project boundaries into EDDMapS West (<http://www.eddmaps.org>),
- evaluate results of the project using a monitoring system approved by the Department and,
- establish photo point sites and include photos with the final project.

Project Funding Recipient agrees to perform all tasks identified in this agreement or attached as appendices. The provisions stated in this agreement expressly supersede any conflicting or additional provisions stated in the Project Funding Recipient's grant proposal.

Any publications, brochures, maps or any materials produced as a result of this grant shall be considered public property and a copy must be submitted to the Department as part of the final reporting requirements of this grant. It is also agreed that the Project Funding Recipient may, if necessary, charge a reasonable fee for the reproduction and distribution of these materials to the general public.

5. SUPPORTING DOCUMENTS:

Appendix A: "2020 Yellowstone River Saltcedar Project - Yellowstone County" grant proposal.

Appendix B: Revised WebGrants components in initial grant version.

6. PROJECT FUNDING RECIPIENT RESPONSIBILITIES: The Project Funding Recipient has the primary responsibility for directing, supervising and coordinating the performance of all project activities carried out under the terms of this agreement. The Project Funding Recipient has not been hired by the Department to perform any work for or on behalf of the State of Montana.

The Project Funding Recipient may delegate the pesticide application responsibility in whole or in part, but it must be in writing, and the Project Funding Recipient will remain responsible for all work performed under such delegation. Any delegation of pesticide application responsibility by a public agency under this paragraph, shall comply with all applicable contracting requirements including competitive bidding and conflict of interest statutes and rules. All non-public recipients of grants shall also comply, in spirit and intent, with those statutes and rules applicable to public agencies.

The Project Funding Recipient has the duty and right to control, supervise and monitor the specific methods or specific operative details of the day-to-day performance of the weed management activities. The Project Funding Recipient will follow Montana's Prevailing Wage Law.

7. LEGAL REQUIREMENTS: The Project Funding Recipient shall follow all requirements in accordance with all federal, state, and local laws and statutes and all applicable rules, regulations and standards. Funding recipients shall adhere to Noxious Weed Trust Fund policies as follows:

- Any travel expenses (meals, mileage) approved in the project budget will be reimbursed up to current state per diem rates.
- Project herbicide costs may not exceed current state bid prices by more than 15%.
- Projects with approved administration costs cannot exceed 3% of award, up to \$1,000.

8. ACCESS FOR MONITORING AND REVIEW: The Project Funding Recipient shall grant the Department and its agents, access at any reasonable time to the project activities and all financial and operational records pertaining to it to carry out the monitoring and review to determine compliance with this agreement.

9. COMPENSATION: In consideration for the above specified activities and only those activities, the Department agrees to pay the Project Funding Recipient the maximum amount of \$30,000. This funding is contingent upon sufficient available revenue and verification of matching funds listed in the grant application to equal \$30,000.

A project is eligible to receive funds only if the county in which the project occurs has appropriated money for a noxious weed fund from any source in an amount not less than \$100,000 or an amount equivalent to 1.6 mills levied upon the taxable value of all property.

The Project Funding Recipient shall submit claims for payment of expenses. The Department will verify expenditure receipts as applicable and disburse funds in an amount equal to the documented expenditures. The Department will withhold 10 percent of the total Department portion of the project funding to be disbursed only upon receipt of a final status report and acceptance and approval of the completed project.

10. FINANCIAL REQUIREMENTS: The Project Funding Recipient shall use generally accepted accounting principles in managing the financial records of this grant agreement. The Project Funding Recipient may deviate expenditures by 10 percent provided that total expenditures do not exceed the amount stated in Section 9.

11. REPORTING, RECORD KEEPING AND AUDITS:
FINANCIAL

The Project Funding Recipient will cause proper and adequate books of records and accounting to be kept showing complete and correct entries of all receipts, disbursements and other transactions relating to the project. The Project Funding Recipient shall retain all invoices, bills or other acceptable documentation of grant expenditures for eight years after the project is completed and the Department has closed the grant agreement. The Department may grant the Project Funding Recipient permission to destroy these records prior to the eight-year termination.

The Project Funding Recipient agrees that the Department or the Legislative Audit Division or Legislative Fiscal Division may, at any reasonable time, audit all records, reports and other documents, which the Project Funding Recipient maintains under or in the course of this agreement to ensure compliance with this agreement. In addition, the Department may require, with reasonable cause and notice, the Project Funding Recipient to submit to an audit by a Certified Public Accountant or other person acceptable to the Department, paid for by the Project Funding Recipient.

The Project Funding Recipient shall submit a claim setting forth the project budgets, disbursements and balances for the Department funds, matching funding and any administrative costs. Indirect costs will not be paid. This information shall be submitted each time a claim for payment is made. The Project Funding Recipient shall immediately notify the Department if the matching funding specified in the agreement is reduced, eliminated or lost. Such loss of funding may result in modifications or termination of this agreement.

Pursuant to the sections entitled "Termination", the Department may terminate this agreement upon any refusal of the Project Funding Recipient to allow access to records necessary for the Legislative Auditor or Legislative Fiscal Analyst, to carry out the legislative audit or analysis functions set forth in Title 5, Chapter 12 and 13, MCA, or for the Department or its designee to conduct its own audit. In the event this agreement is terminated for such failures, the Project Funding Recipient, at the option of the Department, shall return to the Department all funds previously awarded the Project Funding Recipient and all results of the project to date. If the project is audited by another federal or state agency, the audit may meet the conditions of this agreement.

OPERATIONAL

The Project Funding Recipient shall provide operational status reports using the Montana Noxious Weed Trust Fund WebGrants system, setting forth activities completed, significant problems and a projection of the next period's activities. This report shall be submitted by November 30 of each contract year.

A final claim and status report shall be submitted to the Department by the Project Funding Recipient no later than 30 days after the term of the contract termination date. This report will summarize all grant activities and expenditures.

The Project Funding Recipient shall reference this grant agreement in any documents distributed to the public or written for publication in the following manner: "MONTANA DEPARTMENT OF AGRICULTURE NOXIOUS WEED TRUST FUND GRANT NUMBER 2020-040."

12. INTELLECTUAL PROPERTY: All patent and other legal rights in or to inventions, processes, organisms, or products, arising out of activities funded in whole or in part by this agreement must be available to the public for royalty-free and nonexclusive licensing. The Project Funding Recipient shall notify the Department in writing of any invention conceived or reduced to practice in the course of performance of this agreement.

The Department and the public shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this agreement.

13. LEGAL RELATIONSHIP BETWEEN THE PARTIES: In performing weed management activities the Project Funding Recipient is not an agent, employee, or independent contractor of the state.

The agents, employees, cooperators and independent contractors, associated with or hired by the Project Funding Recipient to perform or assist in performing weed management activities are not agents, employees, cooperators or independent contractors of the Department.

This grant agreement does not create a partnership, joint venture, joint enterprise or joint undertaking of any sort between the Project Funding Recipient, its agents, employees, cooperators and independent contractors and the state, for the performance of weed management activities.

14. LIAISON: The liaison representatives for the respective parties, to whom communication concerning this agreement shall be directed, are: Grants Coordinator, Montana Department of Agriculture, PO Box 200201, Helena, MT 59620-0201, representing the Department, and Joe Lockwood, Yellowstone County Weed District, 3319 King Avenue East, Billings, MT 59101, representing the Project Funding Recipient.

A change in the liaison representative for the Project Funding Recipient requires written notice to the Department within 15 days of the effective date of the change.

15. NON-DISCRIMINATION: Any hiring of employees under this agreement by the Project Funding Recipient shall be on the basis of merit and qualification, and there shall be no discrimination in such hiring on the basis of race, color, religious creed, political ideas, sex, age, marital status, physical or

mental disability, national origin, or ancestry. As used herein, "qualifications" means qualifications that are generally related to competent performance of the particular occupational task.

16. ASSIGNMENTS: The parties mutually agree that there will be no assignment, transfer, or other delegation of this agreement, nor any interest in this agreement, unless prior agreement has been stipulated elsewhere in this agreement or with the express written consent of both parties.

17. MODIFICATIONS: No letter, email, or other communication passing between the parties to the agreement concerning any matter during this agreement period shall be deemed a part of this agreement unless it is distinctly stated in such letter, email, or communications that it is to constitute part of this agreement, and such letter, email, or communication is attached as an Appendix to this agreement and is signed by the authorized representative of each of the parties to this agreement. This grant contains the entire agreement between the parties, and no statements, promises or inducements made by either party or agents of either party, which are not contained in this writing shall be valid or binding. This agreement shall not be enlarged, modified or otherwise altered without written agreement of both parties.

18. INDEMNITY AND LIABILITY: The Project Funding Recipient shall protect, indemnify, defend and save the Department and the State of Montana and its agents harmless from and against any and all claims, portions of claims, liabilities, demands, causes of actions, judgments, and settlements, including costs and reasonable attorney fees arising in favor of or asserted by any person or entity; on account of personal injury, death, or damage to real or personal property which is, or alleged to be the result, in whole or in part of any acts or omissions of the Project Funding Recipient, its employees, agents, or independent contractors, or the cooperating landowners, their employees, agents, or independent contractors, in connection with the weed management activities described in this agreement and attachments; on account of the failure of the Project Funding Recipient to perform under and comply with Section 4 "Scope of Work" and Section 7 "Legal Requirements" of this agreement.

The duty of the Project Funding Recipient to defend is not contingent upon an admission or jury determination that the Project Funding Recipient or any cooperating landowner committed any negligent acts or engaged in any willful misconduct. The Project Funding Recipient shall pay the reasonable cost and attorney fees incurred by the State in establishing its right to defense or indemnification provided herein.

19. SEVERABILITY: It is agreed by the parties that if any term or provision of this agreement is held to be illegal or in conflict with any Montana law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this agreement did not contain the particular term or provision held to be invalid.

20. TERMINATION:

1. Except as otherwise provided in this section, either party may terminate this agreement for failure of the other party to perform after giving thirty (30) days written notice by registered mail or personal delivery to the other party. The written notice must demand performance of the stated failure within a specified time period of not less than thirty (30) days. If the demanded performance is not completed within the specified time period, the termination is effective at the end of that specified time period.

2. Except as provided in the sections entitled "Reporting, Record Keeping and Audits" and "Failure to Comply", in the event of termination, the Project Funding Recipient shall be paid for the work performed and expenses incurred pursuant to this agreement through the date of termination, and all results of the project to the date of termination including, but not limited to, the original copies of all forms, notes, maps, specimens, photographs, and data prepared by the Project Funding Recipient prior to termination shall become the property of the Department and shall be delivered to the Department.

21. FAILURE TO COMPLY: If the Project Funding Recipient fails to comply with the terms and conditions of this agreement, or reasonable directives or orders issued by the Department, the Department may terminate this agreement pursuant to the section entitled "Termination", Subsection 1, of the grant described herein, and the Project Funding Recipient, at the option of the Department, shall return to the Department all grant funds previously awarded to the Project Funding Recipient. In addition, the Department may bring such legal action as may be necessary to enforce this agreement. In extraordinary cases, such as illness or acts of God, the Department may waive compliance with specific terms of this agreement in the interests of completing the project funded hereunder.

22. MONTANA'S LAW AND VENUE: The parties agree that any action or judicial proceeding for the enforcement of this agreement shall be instituted only in the courts of the state of Montana, and it is mutually agreed that this agreement shall be governed by the laws of the state of Montana, both as to interpretation and performance. In the event of litigation concerning the terms of this agreement, venue shall be in the First Judicial District in and for the County of Lewis and Clark, Montana.

23. OTHER PROVISIONS: Should this grant agreement contemplate a renewal of the grant at the expiration of the term, no promise express or implied is made that the agreement will in fact be renewed. Such renewal shall depend on whether renewed funding is appropriated, and Department approval is granted to the Project Funding Recipient.

24. DATE AND SIGNATURE: The parties expressly intend that any monies offered under this agreement and expended by the contractor between April 1, 2020 and the effective date of this agreement are to be compensated under the terms of this agreement. This agreement shall become effective upon the date of the last signature of all parties indicating acceptance and agreement to the terms and conditions.

I (We) declare that I (We) are legally capable of, and authorized to, enter into this binding agreement for the purpose of obtaining a grant from the Department of Agriculture to be administered according to the terms and conditions of this agreement and other associated documents.

Project Funding Recipients

BY:  Joe Lockwood 4/13/2020
Signature - Contact Person Printed Name Date

BY: _____
Signature - County Commissioner or Tribal Representative Printed Name Date

BY:  NORMAN F. MILLER 4/13/2020
Signature - Weed Board Chair or Other Authorized Representative Printed Name Date

Project Funding Recipient Tax Identification Number 81 - 6001449

Mailing Address P.O. Box 35015 Billings, MT 59107

Montana Department of Agriculture

BY:  April 8, 2020
4BC8F16FF9CB44F... Date
Christy Clark, Deputy Director

354W-OPER / \$30,000